

APPEAL NO. 030197
FILED MARCH 10, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on December 30, 2002. The hearing officer resolved the disputed issues by deciding that on _____, the appellant (claimant) did not sustain a compensable injury and that since there is no compensable injury there can be no disability and the extent of injury issue is moot. The claimant appealed, arguing that the hearing officer's determinations are against the great weight and preponderance of the evidence and are manifestly unjust. The respondent (carrier) responded, arguing that the claimant's appeal was insufficient and that there was sufficient evidence to support the hearing officer's determinations.

DECISION

Affirmed.

The carrier argues in its response that the claimant's appeal is insufficient because the claimant failed to appeal any specific findings of fact or conclusions of law. The claimant's appeal set forth the hearing officer's conclusions that the claimant did not sustain a compensable injury and did not have disability and that because the hearing officer did not find a compensable injury, the extent question became moot. The claimant then argued that the hearing officer's determinations were against the great weight and preponderance of the evidence and are manifestly unjust. We consider the claimant's appeal adequate to address the sufficiency of the evidence to support the decision of the hearing officer. See Texas Workers' Compensation Commission Appeal No. 92292, decided August 18, 1992.

The claimant testified that he was injured after being thrown about the sleeper compartment while his driving partner was driving the truck over a rough road. The claimant had the burden to prove that he sustained a compensable injury and that he has had disability as defined by Section 401.011(16). Conflicting evidence was presented at the CCH on the disputed issues. In evidence was a medical record dated March 28, 2002, in which a doctor opined that the abnormalities on the MRI predate and cannot be attributed to alleged events of _____. The hearing officer noted in her discussion of the evidence that the claimant's testimony was not credible. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). We conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so against

the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The 1989 Act requires the existence of a compensable injury as a prerequisite to a finding of disability. Section 401.011(16). Because the claimant did not sustain a compensable injury, the hearing officer properly concluded that the claimant did not have disability. Additionally, since there was a determination of no compensable injury, the extent of injury issue is moot.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **OLD REPUBLIC INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**PRENTICE HALL CORPORATION SYSTEM, INC.
800 BRAZOS
AUSTIN, TEXAS 78701.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Gary L. Kilgore
Appeals Judge